

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION**

\_\_\_\_\_  
DONALD P. SPEAKMAN, STEPHEN H.  
WEDEL, and MARK L. ROBARE,  
Individually and On Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

ALLMERICA FINANCIAL LIFE INS. &  
ANNUITY CO., FIRST ALLMERICA  
FINANCIAL LIFE INS. CO., and  
ALLMERICA FINANCIAL CORP.,

Defendants.  
\_\_\_\_\_

Civil Action No. 4:04-cv-40077-FDS

**ORAL ARGUMENT REQUESTED**

**DEFENDANTS' MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants Allmerica Financial Life Insurance & Annuity Company ("AFLIAC"), First Allmerica Financial Life Insurance Company ("AFLI"), and Allmerica Financial Corporation ("AFC") hereby move to dismiss plaintiffs' First Amended Class Action Complaint ("Amended Complaint").

The grounds for this Motion are set forth in Defendants' Memorandum of Law, filed herewith.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(D), the defendants hereby request that the Court grant a hearing on their Motion to Dismiss. In support of this request, the defendants believe that oral argument will assist the Court in clarifying and evaluating the issues raised in the Motion.

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)**

Counsel for the defendants certifies that he has attempted in good faith to resolve or narrow the issues raised in this Motion, but has been unable to do so. This Motion is filed in accordance with the Court's Scheduling Order.

WHEREFORE, defendants respectfully request that the Court:

- i. Dismiss the Amended Complaint, in its entirety, with prejudice and without leave to amend;
- ii. Enter Judgment for defendants and against plaintiffs; and
- iii. Grant such further relief as is just and proper.

Respectfully submitted,

ALLMERICA FINANCIAL LIFE INSURANCE &  
ANNUITY CO., FIRST ALLMERICA  
FINANCIAL LIFE INSURANCE CO., and  
ALLMERICA FINANCIAL CORP.

By their attorneys,

/s/ Eric D. Levin

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Dated: August 11, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served on this 11th day of August, 2004 by overnight mail on:

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/s/ Eric D. Levin  
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